IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Bhupat Singh & Ors. vs. State of Rajasthan & Ors.
(S.B.Civil Writ Petition No. 7138/06)

Dated:- 19.11.2007.

HON'BLE MR.JUSTICE SANGEET LODHA

Mr.D.K.Sharma, for the petitioner.
Mrs. R.R.Kanwar, Dy.Government Advocate.

BY THE COURT:-

This writ petition is directed against communication dated 17th August, 07(Ex.2) , whereby the District Collector,Chittorgarh has directed the authorities concerned not to convert /allot agriculture land the details whereof was attached to the said communication, for non agricultural purpose for the reason that the said land is proposed to be acquired at the instance of Hindustan Zinc Limited in connection with the establishment of the power plant to increase the production capacity of let zinc metal plan.

It is contended by the learned counsel that there is no bar in the law against the conversion of the land which is likely to be acquired for any purpose under the Land Acquisition Act. The learned counsel contended that when the legislature has fixed the time limit for issue of declaration u/s 6 after publication preliminary notification u/s 4 and further time has been fixed for

passing the award for compensation, any government order or policy having contrary effect of increasing the period of uncertainty is not sustainable in eye of law being contrary to the scheme of Land Acquisition Act.

Per contra, it is submitted by the learned Dy.Government Advocate that the proposal for acquisition of the land has already been sent by the District Collector to the State Government vide communication dated 28th August, 06 (Annex.R/1) and in pursuance thereof , the land acquisition proceedings has already been initiated. The learned Dy.Government Advocate further submitted that admittedly, no application for change of the user of the land has been preferred by the petitioner till this date, therefore, the writ petition preferred is pre mature and deserves to be dismissed on this count alone.

I have considered the rival submissions made by the learned counsel for the parties.

The conversion of the agriculture land for residential or any other purpose cannot be claimed as a matter of right. The State Government is well within its jurisdiction to withheld or refuse the conversion of the land from agriculture to any other purpose for valid reasons.

In my considered opinion, if the land is proposed to be acquired for any specific purpose permissible under the Law then, the decision of the government restraining the conversion

or allotment of the land for any other purpose till the matter with regard to the proposed acquisition of the land is decided, cannot be faulted with. Moreover, it is not the case of the petitioner that he has moved an application for conversion of the land and the same has not been decided by the State Government. Therefore, at this stage, the writ petition preferred is pre mature. However, it is expected that the State Government should take a decision regarding the proposed acquisition of the land expeditiously so that the land owners may not be deprived of user of their land for the desired purpose for an indefinite period.

Accordingly, the writ petition is dismissed with the above observations. No order as to costs.

(SANGEET LODHA),J.